IN THE

United States
Circuit Court of Appeals,

FOR THE NINTH CIRCUIT.

Clarence E. Lewis,
Appellant,

vs.

The United States of America,
Appellee.

APPELLANT'S REPLY BRIEF.

COOPER, COLLINGS & SHREVE,
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In the case at bar, in our opening brief, we set forth two points upon which we sought a reversal. First, that the verdict was contrary to the law and the evidence; and, second, insufficiency of the evidence as applied to the charge.

In reply to these points, the appellee contends that sections one and eight of the Harrison Narcotic Act apply to all persons alike, and cites in support thereof 242 Fed. 749, and 254 Fed. 225, but such is not our interpretation of the statute in question, and we again refer to the cases cited in our opening brief. Under the Jin Fuey Moy case, 241 U. S. 402, the only persons required to register are those who engage in the business of dealing in or prescribing narcotics, and likewise, under the Federal law, the mere possession of narcotics alone is no offense. Now, either this is or

is not the law, and the cases which bear such contention out are

U. S. v. Jin Fuey Moy, 241 U .S. 394, and
U. S. v. Hosier, 260 Fed. 155 (4 C .A. C.).

The defendant in this case was charged with two offenses—first, that of selling narcotics, of which offense he was acquitted; and second, that of dealing in narcotics without having registered as required by law, and upon which count he was found guilty.

Now, having been acquitted of the sale, the only question for consideration is, Did he deal in and dispense drugs? The District Attorney contends upon this point that in cases of this character, under section eight, all the Government has to do is to show possession, and that such being the case, the presumption arising from such fact is sufficient to convict. If such is the law, clearly the decision in the case of United States v. Wilson, 225 Fed. 82, is not the law, for in that case the facts are similar to the case at bar.

As to point two, the defendant contends that the evidence is insufficient as applied to the charge. In addition to the other cases cited by us, we wish simply to add the case of

Stokes v. U. S., 264 Fed. 18,

in which it was held that an unfair charge upon the evidence adduced is a ground for a reversal.

Upon which we conclude that the case should be reversed and remanded.

Respectfully submitted,
COOPER, COLLINGS & SHREVE,
Attorneys for Appellant.